

AMENDED IN SENATE JUNE 16, 2016

AMENDED IN ASSEMBLY APRIL 13, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2853

Introduced by Assembly Member Gatto

February 19, 2016

An act to amend Section 6253 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2853, as amended, Gatto. Public records.

~~The~~

(1) The California Public Records Act requires—state and local agencies a public agency, defined to mean any state or local agency, to make—~~their~~ its public records available for public inspection and to make copies available upon request and payment of a fee unless the public records are exempt from disclosure. The act prohibits limitations on access to a public record based upon the purpose for which the public record is being requested if the record is otherwise subject to disclosure, authorizes public agencies to adopt requirements for themselves that allow for faster, more efficient, or greater access to records, and requires local—agencies agencies, except school districts, that voluntarily post public records on an open data Internet Resource, as defined, to post those public records in an open format that meets specified criteria.

This bill would authorize a public agency that posts a public record on its Internet Web site to ~~first refer a person~~ *member of the public* that requests to inspect ~~or obtain a copy of~~ the public record to the public

agency's Internet Web site where the public record is posted. *This bill would require, if a member of the public requests a copy of the public record due to an inability to access or reproduce the public record from the Internet Web site where the public record is posted, the public agency to promptly provide a copy of the public record to the member of the public, as specified.*

Existing

(2) *Existing* constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

~~To the extent that this bill would authorize additional local agency expenditures in complying with the California Public Records Act, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

(3) *The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.*

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6253 of the Government Code is amended
- 2 to read:
- 3 6253. (a) Public records are open to inspection at all times
- 4 during the office hours of the state or local agency and every person
- 5 has a right to inspect any public record, except as hereafter
- 6 provided. Any reasonably segregable portion of a record shall be

1 available for inspection by any person requesting the record after
2 deletion of the portions that are exempted by law.

3 (b) Except with respect to public records exempt from disclosure
4 by express provisions of law, each state or local agency, upon a
5 request for a copy of records that reasonably describes an
6 identifiable record or records, shall make the records promptly
7 available to any person upon payment of fees covering direct costs
8 of duplication, or a statutory fee if applicable. Upon request, an
9 exact copy shall be provided unless impracticable to do so.

10 (c) Each agency, upon a request for a copy of records, shall,
11 within 10 days from receipt of the request, determine whether the
12 request, in whole or in part, seeks copies of disclosable public
13 records in the possession of the agency and shall promptly notify
14 the person making the request of the determination and the reasons
15 therefor. In unusual circumstances, the time limit prescribed in
16 this section may be extended by written notice by the head of the
17 agency or his or her designee to the person making the request,
18 setting forth the reasons for the extension and the date on which
19 a determination is expected to be dispatched. No notice shall
20 specify a date that would result in an extension for more than 14
21 days. When the agency dispatches the determination, and if the
22 agency determines that the request seeks disclosable public records,
23 the agency shall state the estimated date and time when the records
24 will be made available. As used in this section, "unusual
25 circumstances" means the following, but only to the extent
26 reasonably necessary to the proper processing of the particular
27 request:

28 (1) The need to search for and collect the requested records
29 from field facilities or other establishments that are separate from
30 the office processing the request.

31 (2) The need to search for, collect, and appropriately examine
32 a voluminous amount of separate and distinct records that are
33 demanded in a single request.

34 (3) The need for consultation, which shall be conducted with
35 all practicable speed, with another agency having substantial
36 interest in the determination of the request or among two or more
37 components of the agency having substantial subject matter interest
38 therein.

1 (4) The need to compile data, to write programming language
2 or a computer program, or to construct a computer report to extract
3 data.

4 (d) Nothing in this chapter shall be construed to permit an
5 agency to delay or obstruct the inspection or copying of public
6 records. The notification of denial of any request for records
7 required by Section 6255 shall set forth the names and titles or
8 positions of each person responsible for the denial.

9 (e) Except as otherwise prohibited by law, a state or local agency
10 may adopt requirements for itself that allow for faster, more
11 efficient, or greater access to records than prescribed by the
12 minimum standards set forth in this chapter.

13 (f) ~~A—In addition to maintaining public records for public~~
14 ~~inspection during the office hours of the public agency, a public~~
15 ~~agency may comply with subdivision (a) by posting any public~~
16 ~~record on its Internet Web site and, in response to a request for a~~
17 ~~public record listed posted on the Internet Web site, referring the~~
18 ~~person to that directing a member of the public to the location on~~
19 ~~the Internet Web site where the public record is posted. However,~~
20 ~~if after the public agency refers the person directs a member of the~~
21 ~~public to the Internet Web site, the person member of the public~~
22 ~~requesting the public record requests a copy of the public record~~
23 ~~due to an inability to access or reproduce the public record from~~
24 ~~the Internet Web site, the public agency shall, within 10 days,~~
25 ~~prepare shall promptly provide a copy of the public record pursuant~~
26 ~~to subdivision (b), and promptly notify the person of the availability~~
27 ~~of the public record. (b).~~

28 SEC. 2. The Legislature finds and declares that Section 1 of
29 this act, which amends Section 6253 of the Government Code,
30 imposes a limitation on the public's right of access to the meetings
31 of public bodies or the writings of public officials and agencies
32 within the meaning of Section 3 of Article I of the California
33 Constitution. Pursuant to that constitutional provision, the
34 Legislature makes the following findings to demonstrate the interest
35 protected by this limitation and the need for protecting that interest:

36 The state has a very strong interest in ensuring both the
37 transparency of, and efficient use of limited resources by, public
38 agencies. In order to protect this interest, it is necessary to allow
39 public agencies that have already increased the public's access to
40 public records by posting public records on the public agencies'

1 Internet Web sites to refer requests for posted public records to
2 these Internet Web sites.

3 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
4 ~~Section 6 of Article XIII B of the California Constitution because~~
5 ~~the only costs that may be incurred by a local agency or school~~
6 ~~district under this act would result from a legislative mandate that~~
7 ~~is within the scope of paragraph (7) of subdivision (b) of Section~~
8 ~~3 of Article I of the California Constitution.~~

9 *SEC. 3. The Legislature finds and declares that Section 1 of*
10 *this act, which amends Section 6253 of the Government Code,*
11 *further, within the meaning of paragraph (7) of subdivision (b)*
12 *of Section 3 of Article I of the California Constitution, the purposes*
13 *of that constitutional section as it relates to the right of public*
14 *access to the meetings of local public bodies or the writings of*
15 *local public officials and local agencies. Pursuant to paragraph*
16 *(7) of subdivision (b) of Section 3 of Article I of the California*
17 *Constitution, the Legislature makes the following findings:*

18 *Since this act would authorize local agencies to make disclosures*
19 *of public records by posting the public records on their Internet*
20 *Web sites, thus making public record disclosures by local agencies*
21 *more quickly and cost effectively, this act furthers the purpose of*
22 *Section 3 of Article I of the California Constitution.*